Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 29, 1997

Mr. Roland R. Bieber, RPA
Chief Appraiser
Jefferson County Appraisal District
P.O. Box 1470
Groves, Texas 77619

OR97-0182

Dear Mr. Bieber:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 103295.

The Jefferson County Appraisal District (the "district") received two open records requests for various documents pertaining to the appraisals of several properties within the district. Specifically the requestor seeks:

1. The appraisals prepared by either the Appraisal District or its appraisal firm on the Properties.

2. The supporting data used by either the Appraisal District or its appraisal firm in preparing the appraisals.

3. All appraisal and assessment related information prepared by either the Appraisal District or its appraisal firm, including source documents, supporting data, workpapers[,] engineering drawings, flow charts and inventory detail sheets.

4. Documents containing the numbers and calculations the Appraisal District or its appraisal firm used to reach the appraised values, as well as other data that justifies the appraisals.

You inform us that the appraisals of the various properties were conducted by the appraisal firm of Capitol Appraisal Group, Inc. ("CAG"). *See* Tax Code § 25.01(b). You state that you have released to the requestor all of the information held by the district and

CAG coming within the ambit of items 1 and 2 listed above, i.e., the appraisals and supporting data, except for certain records the district has obtained through the discovery process in connection with pending litigation concerning the appraised values of three of the properties. You contend that those particular records are excepted from required public disclosure pursuant to section 552.107(b) because they are subject to a protective order issued by the courts hearing the respective lawsuits.[1]

Section 552.107(2) of the Government Code protects information that "a court by order has prohibited disclosure." This office has interpreted this language as protecting only information that a court has specifically ordered *not* to be disclosed, *i.e.* information subject to a protective order. *See, e.g.,* Open Records Decision Nos. 309 (1982); 143 (1976). You have submitted to this office copies of three protective orders restricting the release of certain records the district has obtained during the discovery process of the three lawsuits. Because the release of those records to the requestor would in this instance violate the terms of the protective order, we conclude that the district must withhold those records pursuant to section 552.107(2).

With regard to the remaining requested records, you state that because the appraisals were actually conducted by CAG, and not the district, the records coming within the ambit of items 3 and 4 were never possessed by the district, but rather these records were held exclusively by CAG. You inquire whether the district is required under the Open Records Act to obtain those records from CAG in order to comply with the current open records request.

Section 25.01(c) of the Tax Code provides:

> A contract for appraisal services for an appraisal district is invalid if it does not provide that copies of the appraisal, together with supporting data, must be made available to the appraisal district and such appraisals and supporting data shall be public records. *"Supporting data" shall not be construed to include personal notes, correspondence, working papers, thought processes, or any other matters of a privileged or proprietary nature.* [Emphasis added.]
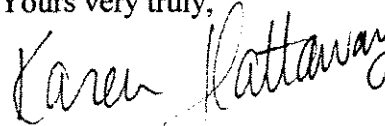
We believe that the above emphasized language describes the types of information sought in items 3 and 4 of the open records request, i.e., "source documents, supporting data, workpapers[,] engineering drawings, flow charts and inventory detail sheets" and "documents containing the numbers and calculations the Appraisal District or its appraisal firm used to reach the appraised." An outside appraisal firm is not required to provide these types of information to the district. Open Records Decision No. 550 (1990) at n.2. *See also*

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[1]We assume for purposes of this ruling that the records subject to the protective order come within the ambit of either items 1 or 2.

Tax Code § 22.27(a).[2] We therefore conclude that the district is not required to obtain these materials from CAG in order to comply with the open records request.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/RWP/ch

Ref.:   ID# 103295

Enclosures: Submitted documents

cc: Mr. David Kaplan
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(w/o enclosures)

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[2]Section 22.27(a) provides:

Rendition statements, real and personal property reports, and income and expense information related to a property filed with an appraisal office and information voluntarily disclosed to an appraisal office or the comptroller about real or personal property sales prices after a promise it will be held confidential are confidential and not open to public inspection. The statements and reports and the information they contain about specific real or personal property or a specific real or personal property owner and information voluntarily disclosed to an appraisal office about real or personal property sales prices after a promise it will be held confidential may not be disclosed to anyone other than an employee of the appraisal office who appraises property except as authorized by Subsection (b) of this section.